REMARKS

In accordance with the foregoing, the specification, the drawings, and claims 1, 5, and 8 have been amended. Claims 1-9 are pending, with claims 1, 5, and 8 being independent. No new matter is presented in this Amendment.

Request for Indication That Replacement Sheets of Drawings Have Been Accepted by Examiner

In item 10 on page 1 (the Office Action Summary) of the Office Action of August 21, 2008, the Examiner indicates that the drawings filed on October 16, 2003, have been accepted by the Examiner. However, seventeen replacement sheets of drawings were attached to the Amendment After Final Rejection of July 29, 2008, and it is respectfully requested that the Examiner indicate whether these seventeen replacement sheets of drawings filed on July 29, 2008, have been accepted by the Examiner in the next Office Action.

Specification and Drawing Amendments

Paragraph [0020] has been amended to change "be" to "being."

Paragraph [0063] has been amended to change "draws" to "reads."

Paragraph [0073] has been amended to change "draws" to "retrieves," and to change "drawn" to "retrieved."

FIG. 6 has been amended to change "FILES TO BE PRELOAD" in operation 606 to "PRELOADED FILES."

FIG. 8 has been amended to change "DRAWS" in operation 801 to "READS."

FIG. 16 has been amended to change "THERTO" in the label on the line between operations 1603 and 1605 to "THERETO," and to change "USE OF DESIGNATED MARKUP DOCMENTS" in operation 1610 to "OF DESIGNATED MARKUP DOCUMENTS IN USE."

The Examiner's Explanations of the Claim Rejections Under 35 USC 102 and 103 Are Improper

The Examiner's explanations of the rejections of claims 1-9 under 35 USC 102(e) and 103(a) refer primarily to the language of original claims 1-9 as originally filed, not to the language of the current versions of claims 1-9 as they appear in the Amendment After Final Rejection of July 29, 2008. For example, in explaining the rejection of claim 1, the Examiner states "Landsman et al. teaches a computer-readable medium encoded with program codes for enabling a method of reproducing AV data in an interactive mode using markup documents, performed by a computer, the computer-readable medium comprising : a first program code to carry out buffering . . . ." Except for the term "computer-readable medium," this explanation is consistent with the language of claim 1 as originally filed, which recites "[a] data storage medium encoded with program codes for enabling a method of reproducing AV data in an interactive mode using markup documents, performed by a computer, the data storage medium comprising: a first program code to carry out buffering . . . ." However, this explanation is inconsistent with the current version of claim 1 as it appears in the Amendment After Final Rejection of July 29, 2008, which recites "[a] computer-readable medium encoded with program code segments for implementing a method of reproducing AV data in an interactive mode using markup documents performed by a computer, the computer-readable medium comprising: a first program code segment to carry out buffering . . . ." Accordingly, it is submitted that the Examiner's explanation of the rejection of claims 1-3 and 5-7 is improper, and it is respectfully requested that the Examiner provide an explanation that is consistent with the most recent version of the claims in any future rejection.

Furthermore, the Examiner's explanations of the rejections consist primarily of a copy of claims 1-9 with parenthetical expressions referring to various portions of Landsman. However, the Examiner has not explained why she considers these portions of Landsman to disclose the features recited in claims 1-9, which makes it impossible for the applicants to respond to the rejections without speculating about how the Examiner is interpreting Landsman, which has the potential to prejudice the applicants by prolonging the prosecution of the application. For example, if the applicants respond to the rejections based on their best guess as to how the Examiner is interpreting Landsman, and the Examiner repeats the rejections because she was actually relying on some other interpretation of Landsman, the applicants will be forced to file another response to address the Examiner's actual interpretation of Landsman.

For example, the Examiner has not explained why she considers Landsman to disclose "an interactive mode" as recited in claims 1, 5, and 9. The term "interactive" appears in Landsman only in the phrases "Interactive media and Marketing Section" and "Interactive Quarterly Section" on page 3 of Landsman in the "Other Publications" section of the "References Cited" section, and in the term "interactive games" in column 2, line 53, of Landsman. However, the Examiner has not relied on these portions of Landsman in explaining the rejections.

Accordingly, it is submitted that the Examiner has not established a *prima facie* case of anticipation with respect to claims 1-3 and 5-7, or a *prima facie* case of obviousness with respect to claims 4, 8, and 9, and it is respectfully requested that in any future rejection the Examiner may make, the Examiner explain why she considers any references she may rely upon to disclose or suggest the features recited in the claims.

Claim Rejections Under 35 USC 102

Claims 1-3 and 5-7 have been rejected under 35 USC 102(e) as being anticipated by Landsman et al. (Landsman) (U.S. Patent No. 6,466,967). This rejection is respectfully traversed.

It is submitted that the Examiner has not established a *prima facie* case of anticipation with respect to claims 1-3 and 5-7 for at least the reasons discussed above.

Furthermore, it is submitted that Landsman does not disclose or suggest the following features now recited in independent claim 1:

> 1. A computer-readable medium encoded with program code segments for implementing a method of reproducing AV data in an interactive mode using markup documents performed by a computer, the computer-readable medium comprising:
>
> a first program code segment to carry out buffering of the markup documents to preload the markup documents into a memory before the AV data is reproduced to enable the preloaded markup documents to be used in reproducing the AV data in the interactive mode; and

> a second program code segment to output information indicating whether the buffering of the markup documents is completed;
>
> wherein the interactive mode is selected by a user desiring to view the AV data.

or the following features now recited in independent claim 5:

> 5. A computer-readable medium encoded with program code segments for implementing a method of reproducing AV data in an interactive mode using markup documents performed by a computer, the computer-readable medium comprising:
>
> a first program code segment to issue a command to preload the markup documents into a memory using a fetch signal before the AV data is reproduced to enable the preloaded markup documents to be used in reproducing the AV data in the interactive mode; and
>
> a second program code segment to inform whether the command to preload the markup documents has been successfully issued using the fetch signal;
>
> wherein the interactive mode is selected by a user desiring to view the AV data.

The Examiner considers column 16, line 56, through column 17, line 9, and column 26, lines 43-49, of Landsman to disclose the "first program code segment" recited in claims 1 and 5, and considers column 15, lines 51-67; column 25, lines 39-48; and column 26, lines 20-49, of Landsman to disclose the "second program segment" recited in claims 1 and 5.

Column 10, lines 5-9, of Landsman discloses an HTML tag described as an "advertising tag" that is embedded into a referring page and contains two components. One of the two components of the HTML tag is a component that downloads a Java applet to a user's computer that in turn downloads advertising files (media and player files) to the user's computer and plays the advertising files on an interstitial basis in response to a user click-stream, that is, when the user clicks a mouse to transition to a next successive content page. See column 10, lines 9-20 and 45-53, of Landsman. The other component of the HTML tag is the web address of an advertising management system from which the advertising files are to be downloaded. See column 10, lines 20-23, of Landsman. The Java applet that is downloaded to the user's computer is the AdController agent shown in FIG. 1B of Landsman and described in column 16, lines 56-65, of Landsman.

After the AdController agent has been downloaded to the user's computer, the AdController agent downloads an AdDescriptor file 2000 shown in FIG. 20 of Landsman to the user's computer as shown in FIG. 1C of Landsman. The AdDescriptor file 2000 lists all of the media and player files required for the advertisement as described in column 21, line 32, through column 22, line 2, of Landsman. Then, the AdController agent downloads the media and player files listed in the AdDescriptor file to the browser disk cache of the user's computer as shown in FIG. 1C of Landsman and also to the browser RAM cache of the user's computer as described in column 19, lines 3-7, of Landsman. After all of the media and player files have been downloaded to the browser disk cache and the browser RAM cache of the user's computer, the AdController plays the media files the next time the user clicks a mouse to transition to a next web page as shown in FIG. 1C of Landsman and described in column 22, lines 46-56, of Landsman.

Assuming *arguendo* that Landsman's media files for the advertisement correspond to "AV data" as recited in claims 1 and 5, Landsman discloses that the AdController agent, the AdDescriptor file 2000, the player files, and the media files are downloaded before the media files ("AV data") are played or reproduced. However, it is not seen how the AdController agent, and/or the AdDescriptor file 2000, and/or the player files can reasonably be considered to be "markup documents" as recited in claims 1 and 5. Accordingly, it is submitted that Landsman does not disclose or suggest "a first program code segment to carry out buffering of the markup documents to preload the markup documents into a memory before the AV data is reproduced to enable the preloaded markup documents to be used in reproducing the AV data in the interactive mode" as now recited in claim 1, or a first program code segment to issue a command to preload the markup documents into a memory using a fetch signal before the AV data is reproduced to enable the preloaded markup documents to be used in reproducing the AV data in the interactive mode" as now recited in claim 5.

Column 15, lines 51-67; column 16, line 56, through column 17, line 9; column 25, lines 39-48; and column 26, lines 43-49, of Landsman relied on by the Examiner in the explanations of the rejection of claims 1 and 5 are part of a detailed explanation of how the HTML tag referred to above downloads the advertising files and plays the advertising files on an interstitial basis in response to a user click-stream, that is, when the user clicks a mouse to transition to a next successive content page. See, for example, column 16, line 65, through column 17, line 4, of Landsman, which states as follows (emphasis added):

> This agent, once instantiated and started, then transparently and politely downloads (actually pre-loads) advertisements into the browser disk cache, and subsequently plays each of those advertisements, on an interstitial basis, in response to a click stream generated by the user as (s)he navigates, through use of browser 7, between successive web pages.

and column 26, lines 25-49, of Landsman, which states as follows (emphasis added):

> As discussed generally above, the Transition Sensor applet implements, as one of its functions, a transition sensor which detects, through user navigation click-stream monitoring, a user-initiated transition to a new web page, and produces, in response, a corresponding Transition Sensor event. Such a transition occurs in response to an actual user initiated mouse click or key depression to activate a hotlink appearing on a currently displayed content page in order to move to new content page, either on the same site or on another site. Another such transition occurs whenever a stored history of web pages just visited by the user changes state. The latter is sensed by a JavaScript function that monitors a history stored in browser disk cache 430 of visited web page URLs and generates an event whenever the history changes state. For ease of reference, we will collectively define the term "click-stream" to encompass any user-initiated transition to a new content page, whether it is a mouse click, key depression or history state change.
>
> Transition Sensor events are used to trigger the play of an advertisement only if, by then, all the media and player files for that advertisement have been fully cached into browser disk cache 430. Otherwise, play of that advertisement is deferred until after all those files are cached and the advertisement is ready to be rendered and, importantly, in response to the next user-initiated transition.

Thus, the applicants' best guess as to how the Examiner is interpreting Landsman is that the Examiner considers Landsman to disclose "an interactive mode" as recited in claims 1 and 5 because the Landsman's HTML tag presents advertisements based on a user's actions, such as when a user clicks a mouse to transition to a next content page.

However, it is submitted that the alleged interactive mode disclosed in Landsman in which advertisements are presented based on a user's actions is not an "interactive mode [that] is selected by a user desiring to view the AV data" as now recited in claims 1 and 5 because the user has no control over whether the advertisements will be presented based on his or her actions because this function is implemented solely by the HTML tag that is embedded into a referring page as described in column 10, lines 5-8, of Landsman without any participation whatsoever by the user. In fact, until the first advertising file is reproduced when the user clicks a mouse to transition to a next successive content page, the user will not even be aware that any advertising files have been downloaded because this process is transparent to the user as described in column 10, lines 13-18 and 40-45, of Landsman. Furthermore, in Landsman, it is submitted that the user who is clicking the mouse does not desire to view the advertisements because he or she does not even know if an advertisement is going to be presented when he or she clicks a mouse. Rather, whoever embedded the HTML tag in the referring page desires that the user view the advertisements.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 1-3 and 5-7 (i.e., claims 1 and 5 discussed above and claims 2, 3, 6, and 7 depending therefrom) under 35 USC 102(e) as being anticipated by Landsman be withdrawn.

Claim Rejections Under 35 USC 103

Claims 4, 8, and 9 have been rejected under 35 USC 103(a) as being unpatentable over Landsman in view of Official Notice. This rejection is respectfully traversed.

The applicants traverse the Examiner's assertion of Official Notice, but nevertheless consider claims 4, 8, and 9 to be patentable over Landsman and Official Notice for at least the reasons discussed below. However, the applicants reserve the right to require the Examiner to provide documentary evidence to support her assertion of Official Notice pursuant to MPEP 2144.03(B) in a future Office Action if necessary.

Claim 4

Although the propriety of the Examiner's position and her assertion of Official Notice are not conceded, it is submitted that claim 4 depending from claim 1 is patentable over Landsman and Official Notice for at least the same reasons discussed above that claim 1 is patentable over Landsman.

Claim 8

Although the propriety of the Examiner's position and her assertion of Official Notice are not conceded, it is submitted that Landsman and Official Notice do not disclose or suggest the following features now recited in independent claim 8:

> 8. A computer-readable medium encoded with program code segments for implementing a method of reproducing AV data in an interactive mode using markup documents performed by a computer, the computer-readable medium comprising:
>
> a first program code segment used by a content decoder to check whether a buffer manager has completed preloading of the markup documents into a memory by using an application program interface (API) before the AV data is reproduced to enable the preloaded markup documents to be used in reproducing the AV data in the interactive mode; and
>
> a second program code segment to return a value of true to the content decoder in response to the preloading of the markup documents being successfully completed by the buffer manager by using the API, and otherwise, returns a value of false to the content decoder;
>
> wherein the interactive mode is selected by a user desiring to view the AV data.

It is submitted that Landsman and Official Notice do not disclose or suggest "a first program code segment used by a content decoder to check whether a buffer manager has completed preloading of the markup documents into a memory by using an application program interface (API) before the AV data is reproduced to enable the preloaded markup documents to be used in reproducing the AV data in the interactive mode" as now recited in claim 8, or the feature "wherein the interactive mode is selected by a user desiring to view the AV data" now recited in claim 8, for at least the same reasons discussed above that Landsman does not disclose or suggest the same or similar features of claims 1 and 5.

Claim 9

Although the propriety of the Examiner's position and her assertion of Official Notice are not conceded, it is submitted that claim 9 depending from claim 8 is patentable over Landsman and Official Notice for at least the same reasons discussed above that claim 8 is patentable over Landsman and Official Notice.

Conclusion—Claim Rejections Under 35 USC 103

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 4, 8, and 9 under 35 USC 103(a) as being unpatentable over Landsman in view of Official Notice be withdrawn.

Conclusion

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with the filing of this paper, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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Attachments